

### REMARKS

Applicant has amended claims 12, 14-18, 23 and 29. These changes have been made to place the claims in better form for examination and to further obviate the 35 U.S.C. §§102(b) and 112 rejections as set forth in the Final Office Action dated September 8, 2009. It is believed that none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections is respectfully requested.

The Examiner has rejected claims 13-17 under 35 U.S.C. §112, second paragraph, as being indefinite. Applicant has canceled claim 13 and changed the dependency of claims 14-17. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 12-21, 23-26, 29 and 31 under 5 U.S.C. §102(b) as being anticipated by Smith, P.G. (*J. Hered.*, Vol. 41, No. 5, pp 138-140) in light of Shifriss et al. (*Euphytica*, Vol. 60, 1992, pp 123-126), Park et al. (*Korean J. Plant Path.*, Vol. 5, No. 3, 1989, pp 262-270) and Osuna-Garcia et al. (*J. Ag. Food Chem.*, Vol. 46, No. 12, Dec. 1998, pp. 5093-5096). Applicant has amended claims 12, 14-17, and 29. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 12-21, 23-26, 29 and 31 under 5 U.S.C. §102(b) as being anticipated by Shifriss et al. (*Euphytica*, Vol. 60, 1992, pp 123-126) in light of Park et al. (*Korean J. Plant Path.*, Vol. 5, No. 3, 1989, pp 262-270) and Osuna-Garcia et al. (*J. Ag. Food Chem.*, Vol. 46, No. 12, Dec. 1998, pp. 5093-5096). Applicant has amended claims 12, 14-17, and 29. Withdrawal of this rejection is respectfully requested.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §§102(b) and 112. Reconsideration of this application and a notice of allowance are requested.

**Application No. 10/552,969**  
**Final Office Action dated September 8, 2009**  
**Amendment dated December 8, 2009**

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<b>RESPECTFULLY SUBMITTED,</b>					
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